

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Plaintiff,

vs

Criminal Action
No. 3:20-6-1

JACKSON CURTIS MARTIN, III,
Defendant.

Transcript of sentencing proceedings held on Tuesday,
June 21, 2022, United States District Court, Johnstown,
Pennsylvania, before the Honorable Stephanie L. Haines, U.S.
District Court Judge.

APPEARANCES:

For the Government:

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P R O C E E D I N G S

(In open court.)

THE COURT: Good morning.

ALL PRESENT: Good morning.

THE COURT: This is the time and the place set for the sentencing of Defendant Jackson Curtis Martin, III, in the matter of Criminal No. 3:20-6-1.

I'm Judge Stephanie Haines. And with me is my law clerk, Gary Robinson; my courtroom deputy, Debbie Gorgone; our court reporter, Shirley Hall; my summer intern, Eric; and United States Probation Officer Stacy Miller.

And would counsel please enter their appearance at this time.

MS. SHEEHAN-BALCHON: May it please the Court, Maureen Sheehan-Balchon on behalf of the United States. At counsel table with me, Your Honor, is Agent David Coleman from HSI.

MR. SUGHRUE: Good morning, Your Honor. May it please the Court, Doug Sughrue on behalf of Jackson Martin, III, who is seated to my left.

THE COURT: Miss Gorgone, would you please administer the oath to the Defendant in this case?

MS. GORGONE, DEPUTY CLERK: Sure.

Would you please rise. Raise your right hand.

Do you solemnly swear or affirm that the evidence you shall give to the Court in the cause now trying shall be the

1 truth, the whole truth and nothing but the truth?

2 THE DEFENDANT: I do.

3 MS. GORGONE, DEPUTY CLERK: Thank you.

4 THE COURT: Mr. Martin, do you understand that you're
5 now under oath? If you answer any of my questions falsely,
6 those answers may later be used against you in a prosecution
7 for perjury or making a false statement.

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Let the record reflect that Mr. Martin has
10 pled guilty to Counts 1 and 2 of the indictment charging him
11 with production of material depicting the sexual exploitation
12 of a minor, in violation of 18 United States Code
13 Section 2251(a) and (e).

14 He also pled guilty to Counts 3 and 5 of the
15 indictment charging him with possession of material depicting
16 the sexual exploitation of a minor, in violation of 18 United
17 States Code Sections 2252(a) (4) (B) and (b) (2).

18 It is noted that the United States Probation Office
19 has prepared a presentence investigation report and submitted
20 an addendum and the parties have both filed sentencing
21 memorandum.

22 The Court finds that the record presently before the
23 Court enables it to meaningfully exercise its sentencing
24 authority at this time.

25 Before hearing from either of the parties with regard

1 to any motions for departure from the guidelines, I will first
2 review the sentencing guideline calculations as set forth in
3 the presentence report and as also set forth in the Court's
4 tentative findings and rulings.

5 The Court notes that the Federal Sentencing Guidelines
6 are advisory and not mandatory in their application, and that
7 the 2021 edition of the manual, including amendments, will be
8 used in this case.

9 First, to address grouping, the Defendant has pled
10 guilty to four counts. The offense level for Defendant's
11 conviction at Counts 1 and 2 is governed by Guidelines
12 Section 2G2.1, and the offense level for his convictions at
13 Counts 3 and 4 -- excuse me, 3 and 5 is governed by
14 United States Sentencing Guideline Section 2G2.2.

15 Now, pursuant to Guidelines Section 3D1.1(b), offenses
16 that are covered by guidelines 2G2.2 are to be grouped into a
17 single group, as they allege substantially the same harm.
18 Thus, Counts 3 and 5 are to be grouped into a single group.
19 However, Guidelines Section 3D1.2(d) explicitly excludes
20 offenses covered by Guidelines 2G2.1 from the guideline
21 grouping rules.

22 Accordingly, Counts 1 and 2 may not be grouped
23 together or with the group consisting of Counts 3 and 5.
24 According to this, the Court must first determine the offense
25 level applicable to each of these three groups and then

1 determine the combined offense level under 3D1.4. So first
2 we're going to look at the offense level computation for
3 Counts 3 and 5.

4 Defendant's base offense level for the group
5 consisting of Counts 3 and 5 is 18 pursuant to 2G2.2(a) (1)
6 because he has pled guilty at those counts to possession of
7 material depicting the sexual exploitation of minors, in
8 violation of 18 United States Code Section 2252(a) (4) (B).

9 Pursuant to Guidelines Section 2G2.2(b) (2), a
10 two-level increase is warranted because the material received
11 involved a prepubescent minor or a minor who had not attained
12 the age of 12 years.

13 Pursuant to Guidelines Section 2G2.2(b) (3) (F), a
14 two-level increase is warranted because Defendant knowingly
15 engaged in distribution other than distribution as described in
16 Subdivisions (a) through (e); and this is defined in Guidelines
17 Section 2G2.2, Application Notes 1 and 2.

18 Pursuant to Guidelines Section 2G2.2(b) (4), a
19 four-level increase is warranted because the offense involved
20 material that portrays the sexual abuse or exploitation of an
21 infant or toddler.

22 Pursuant to Section 2G2.2(b) (5) of the guidelines, a
23 five-level increase is warranted because Defendant engaged in a
24 pattern of activity involving the sexual exploitation of a
25 minor from December of 2018 through November 24th of 2019.

1 Pursuant to Guidelines Section 2G2.2(b) (6), a
2 two-level increase is warranted because the offense involved
3 the use of a computer or an interactive computer service for
4 the possession, transmission, receipt, or distribution of the
5 material or for accessing with intent to view the material.

6 Pursuant to Guidelines Section 2G2.2(b) (7) (D), a
7 five-level increase is warranted because the offense involved
8 600 or more images; and, here, Defendant possessed
9 approximately 2,286 images of child sexual exploitation.

10 There are no victim-related adjustments applicable to
11 the group consisting of Counts 3 and 5. There also are no
12 adjustments for role in the offense applicable to the group
13 consisting of Counts 3 and 5. And there are also no
14 adjustments for obstruction of justice applicable to the group
15 consisting of Counts 3 and 5. Therefore, the adjusted offense
16 level for the group consisting of Counts 3 and 5 is 38.

17 Do counsel agree?

18 MS. SHEEHAN-BALCHON: Yes, Your Honor.

19 MR. SUGHRUE: Yes, Your Honor.

20 THE COURT: Next we're going to do the offense level
21 computation for Count 1, and this will be done separate from
22 Count 2 because these two counts, as previously stated, cannot
23 and will not group.

24 The base offense level for Count 1 pursuant to
25 Guidelines Section 2G2.1(a) is 32.

1 Pursuant to Guidelines Section 2G2.1(b) (1) (A), a
2 four-level increase is warranted because the offense involved a
3 minor who had not attained the age of 12 years.

4 Pursuant to Guidelines Section 2G2.1(b) (2) (A), a
5 two-level increase is warranted because the offense involved
6 the commission of a sexual act or sexual conduct.

7 Pursuant to Guidelines Section 2G2.1(b) (3), a
8 two-level increase is warranted because Defendant knowingly
9 engaged in the distribution of the images and videos.

10 Pursuant to Guidelines Section 2G2.1(B) (4) (b), a
11 four-level increase is warranted because the offense involved
12 material that portrays a toddler.

13 Pursuant to Guidelines Section 2G2.1(b) (5), a
14 two-level increase is warranted because Defendant was a parent,
15 relative or legal guardian of the minor involved in the offense
16 or the minor otherwise was in the custody, care or supervisory
17 control of the Defendant. Here, the minor involved in the
18 offense was Defendant's stepdaughter.

19 There are no victim-related adjustments applicable to
20 Count 1. There are no adjustments for role in the offense
21 applicable to Count 1. And there are no adjustments for
22 obstruction of justice applicable to Count 1. Therefore, the
23 adjusted offense level for Count 1 is 46.

24 Do counsel agree?

25 MS. SHEEHAN-BALCHON: Yes, Your Honor.

1 MR. SUGHRUE: Yes, Your Honor.

2 THE COURT: Next we'll do the offense level
3 computation for Count 2.

4 Pursuant to Guidelines Section 2G2.1(a), Defendant's
5 base offense level for Count 2 is 32.

6 Pursuant to Guidelines Section 2G2.1(b) (1) (A), a
7 four-level increase is warranted because the offense involved a
8 minor who had not attained the age of 12 years.

9 Pursuant to Guidelines Section 2G2.1(b) (2) (A), a
10 two-level increase is warranted because the offense involved
11 the commission of a sexual act or sexual conduct.

12 Pursuant to Guidelines Section 2G2.1(b) (3), a
13 two-level increase is warranted because Defendant knowingly
14 engaged in the distribution of the images and videos.

15 Pursuant to Guidelines Section 2G2.1(b) (4) (B), a
16 four-level increase is warranted because the offense involved
17 material that portrays a toddler.

18 Pursuant to Guidelines Section 2G2.1(b) (5), a
19 two-level increase is warranted because Defendant was a parent,
20 relative, or legal guardian of the minor involved in the
21 offense or the minor otherwise was in the care, custody or
22 supervisory control of the Defendant. And, here, the minor
23 involved in the offense at Count 2 was Defendant's
24 stepdaughter.

25 There are no victim-related adjustments applicable to

1 Count 2. There are no adjustments for role in the offense
2 applicable to Count 2. And there are no adjustments for
3 obstruction of justice applicable to Count 2. Therefore, the
4 adjusted offense level for Count 2 is 46.

5 Do counsel agree?

6 MS. SHEEHAN-BALCHON: Yes, Your Honor.

7 MR. SUGHRUE: Yes, Your Honor.

8 THE COURT: Okay. Next we're going to look at the
9 multi-count adjustment.

10 Pursuant to Guidelines Section 3D1.4, the combined
11 offense level is determined by taking the offense level
12 applicable to the group with the highest level and increasing
13 that offense level by the amount indicated in the table set
14 forth in 3D1.4.

15 Here, the highest adjusted offense level is 46 for
16 both Counts 1 and 2. Thus, both are equally serious and count
17 as one unit each under Section 3D1.4(a).

18 The group consisting of Counts 3 and 5, with an
19 adjusted offense level of 38, is eight levels less serious and
20 counts as one-half unit under Section 3D1.4(b).

21 The total number of units, therefore, is
22 two-and-a-half.

23 Pursuant to the table set forth in the guidelines at
24 3D1.4, the offense level applicable to the highest group, which
25 is 46, is to be increased by three levels based on the

1 two-and-a-half units, resulting in a combined offense level of
2 49.

3 Do the parties agree?

4 MS. SHEEHAN-BALCHON: Yes, Your Honor.

5 MR. SUGHRUE: Yes, Your Honor.

6 THE COURT: Now, looking at Chapter 4 enhancements,
7 pursuant to Guidelines Section 4B1.5(b)(1), because Defendant's
8 offenses of conviction are covered sex crimes, neither
9 Section 4B1.1 nor Section 4B1.5(a) applied, and because
10 Defendant engaged in a pattern of sexual activity involving
11 prohibited sexual conduct, the offense level shall be five plus
12 the offense level determined under Chapters 2 and 3 of the
13 sentencing guidelines, which in this case was 49. Adding the
14 five plus onto it gives us a total of 54.

15 As for adjustment for acceptance of responsibility,
16 the Defendant has clearly demonstrated acceptance of
17 responsibility by pleading guilty and timely notifying
18 authorities of his intention to plead guilty. The offense
19 level is therefore reduced by three levels.

20 After applying the adjustments, Defendant's total
21 offense level is therefore 51. However, in a rare case, as
22 this one is, when the total offense level is more than 43, the
23 offense level is to be treated as 43 under Guidelines
24 Chapter 5, Part A, Application Note 2. And, accordingly, then,
25 Defendant's total offense level is 43.

1 Do counsel agree with what computation?

2 MS. SHEEHAN-BALCHON: Yes, Your Honor.

3 MR. SUGHRUE: Yes, Your Honor.

4 THE COURT: Now, to look at criminal history
5 computation, based upon this Defendant's prior criminal
6 history, the Defendant has a total criminal history score of
7 zero.

8 According to the sentencing table and the sentencing
9 guidelines, a criminal history score of zero establishes a
10 criminal history category of one.

11 Do counsel agree?

12 MS. SHEEHAN-BALCHON: Yes, Your Honor.

13 MR. SUGHRUE: Yes, Your Honor.

14 THE COURT: Next we're going to look at sentencing
15 options.

16 As to imprisonment, pursuant to the statutory
17 provisions, the minimum term of imprisonment which shall be
18 imposed at each of Counts 1 and 2 is not less than 15 years,
19 and the maximum term of imprisonment which may be imposed is
20 not more than 30 years.

21 The maximum term of imprisonment which may be imposed
22 at each of Counts 3 and 5 is not more than 20 years because the
23 offenses involved a prepubescent minor or minors who had not
24 obtained 12 years of age.

25 Pursuant to the guidelines, based upon a total offense

1 level of 43 and a criminal history category of one, the
2 applicable guideline imprisonment range is life imprisonment,
3 which falls within Zone D of the sentencing table. However,
4 because the statutorily authorized maximum sentence at each of
5 Counts 1, 2, 3 and 5 is less than the applicable guideline
6 range of life, the statutorily authorized maximum sentence of
7 360 months at Counts 1 and Count 2 and 240 months at Counts 3
8 and 5 shall be the guideline sentence.

9 As to the impact of the plea agreement, pursuant to
10 the parties' Rule 11(c)(1)(C) plea agreement, the parties
11 agreed that the appropriate sentence in this case is a term of
12 imprisonment of at least 30 years, but not more than 35 years;
13 a fine up to \$250,000; a life term of supervised release; a
14 special assessment of \$400; and restitution as determined by
15 the Court.

16 As to supervised release, pursuant to the statutory
17 provisions, the authorized term of supervised release at each
18 of Counts 1, 2, 3 and 5 is five years to life, and multiple
19 terms of supervised release shall run concurrently.

20 Pursuant to the guidelines, the term of supervised
21 release imposed shall be not less than the statutorily required
22 term of supervised release of not less than five years and may
23 be up to life because the offenses of conviction are sex
24 offenses. Because the offenses are sex offenses, the
25 guidelines recommend a statutory maximum term of supervised

1 release.

2 As to probation, pursuant to the statutory provisions
3 and to the guidelines, Defendant is not eligible for probation
4 at Counts 1 and 2 because probation is expressly precluded by
5 statute for those offenses which carry mandatory minimum terms
6 of imprisonment. Likewise, under the statute and under the
7 guidelines, Defendant is not eligible for probation at
8 Counts 3 and 5 because he will be sentenced at the same time to
9 a mandatory term of imprisonment at Counts 1 and 2.

10 As to fines, pursuant to the statutory provisions, the
11 maximum authorized fine at each of Counts 1, 2, 3 and 5 is
12 \$250,000. And pursuant to the guidelines, the fine range is
13 50,000 to 500,000. The Court finds, though, that the Defendant
14 is unable to pay a fine and is not likely to become able to pay
15 any fine.

16 A special assessment of \$100 is mandatory at each of
17 Counts 1, 2, 3 and 5.

18 In addition, because Defendant is subject to the
19 provisions of the Justice for Victims of Trafficking Act of
20 2015, an additional special assessment of \$5,000 per count is
21 mandatory on any non-indigent Defendant convicted of an offense
22 relating to the sexual exploitation of children.

23 Defendant is also subject to the provisions of Amy,
24 Vickie and Andy Child Pornography Victim Assistance Act of
25 2018, which provides that in addition to any other criminal

1 penalty, restitution or special assessment not authorized by
2 law, the Court shall assess not more than 17,000 on any person
3 convicted of an offense under 18 United States Code 2252(a) (4)
4 or Section 2252A(a) (5); or not more than 35,000 on any person
5 convicted of any other offense for trafficking in child
6 pornography; or, third, not more than 50,000 on any person
7 convicted of a child pornography production offense.

8 As to restitution, because Defendant has pled guilty
9 at Counts 2 and 5 to child pornography trafficking offenses as
10 defined in the Code, restitution is mandatory as set forth in
11 Section 2259(b) (2). Under that section, the Court must
12 determine the full amount of the victims' losses and order
13 restitution in an amount that reflects the Defendant's relative
14 role in the causal process that underlines the victims' losses
15 but which is no less than \$3,000.

16 Restitution is also mandatory pursuant to
17 18 United States Code Section 3663A.

18 The denial of federal benefits is not applicable in
19 this case.

20 As to forfeiture, pursuant to the preliminary order of
21 forfeiture entered by this Court on May 26 of this year,
22 docketed at Document No. 116, and pursuant to 18 United States
23 Code Section 2253(a) (3), Defendant shall forfeit to the
24 United States multiple electronic devices, accessories,
25 documents, and photos as set forth in detail in that criminal

1 forfeiture order.

2 Attorney Sughrue, have you reviewed and discussed with
3 the Defendant the statutory ranges and the sentencing guideline
4 ranges that I just recited?

5 MR. SUGHRUE: Yes, Your Honor.

6 THE COURT: Have you also discussed and reviewed with
7 your client sentencing factors under Section 3553(a)?

8 MR. SUGHRUE: Yes, Your Honor.

9 THE COURT: Mr. Martin, have you reviewed and
10 discussed with your attorney the statutory ranges and guideline
11 sentencing ranges I just detailed?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And did you also review and discuss with
14 your attorney the sentencing factors under 18 United States
15 Code Section 3553(a)?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: I'll ask at this time if there are any
18 other materials from the parties that the Court should be made
19 aware of?

20 MS. SHEEHAN-BALCHON: Your Honor, the Government
21 supplied the Court today with victim impact statements. There
22 were three in total, Minor A and her two guardians. I also
23 provided that copy to Attorney Sughrue.

24 THE COURT: Any further documents that the defense
25 would like the Court to see?

1 MR. SUGHRUE: No, Your Honor.

2 THE COURT: Okay. Attorney Sughrue, do you have any
3 objections to the factual content or the calculations in the
4 presentence investigation report?

5 MR. SUGHRUE: No, Your Honor.

6 THE COURT: And do you have any objections or
7 corrections that need to be made to this Court's tentative
8 findings and rulings?

9 MR. SUGHRUE: Yes, Your Honor.

10 We do object, for the purposes of the mandatory
11 special assessments. Not, obviously, to the \$100 at each of
12 the four counts of conviction, that's mandatory. But we do
13 object to the \$5,000 per count under the Justice for Victims of
14 Trafficking Act of 2015.

15 We also object to the Amy, Vickie and Andy Child
16 Pornography Victim Assistance Act of 2018. We object to any
17 restitution or -- we object to any assessments against my
18 client because he is indigent. He has been incarcerated since
19 2019. He has a state case he is still fighting with a public
20 defender in Clearfield County. I am court-appointed to
21 represent him. The sentence that has been agreed to at a
22 minimum today puts him in prison until he's about 70 years old
23 or so. His financial situation is not expected to change any.

24 In addition, with the mandatory, at least minimum
25 criminal restitution of \$3,000 will be -- at a minimum will be

1 required of Mr. Martin, which will be taken out of his earnings
2 while he is in BOP for the next period of time; and so I would
3 submit that he is indigent for the purposes of applying any of
4 those assessments to him on this matter.

5 THE COURT: Okay. The Government's position on the
6 indigency of the Defendant as to those two, the JVTa and the
7 AVAA?

8 MS. SHEEHAN-BALCHON: Your Honor, I concur that
9 Mr. Martin is indigent and has no hope of changing that
10 situation.

11 THE COURT: Okay. Then with that request and proffer
12 of indigency, as well as no objection from the United States,
13 the Court will not assess the monetary assessments under the
14 Justice for Victims of Trafficking Act of 2015 and also will
15 not assess the assessment under the Amy, Vickie and Andy Child
16 Pornography Victim Assistance Act, finding that this Defendant
17 is indigent.

18 I will note, Attorney Sughrue, in the Court's
19 tentative findings and rulings, the Court does address in
20 laying out those mandatory special assessments that it only
21 apply to non-indigent defendants.

22 So with the argument you've made and the finding and
23 the ruling of the Court, do you have any further objections to
24 this Court's tentative findings and rulings?

25 MR. SUGHRUE: No. No, Your Honor, we do not.

1 THE COURT: Okay. Attorney Sheehan-Balchon, does the
2 Government have any objections to the factual content or
3 calculations in the presentence report?

4 MS. SHEEHAN-BALCHON: No, Your Honor.

5 THE COURT: And any objections or corrections to this
6 Court's tentative findings and rulings?

7 MS. SHEEHAN-BALCHON: None, Your Honor.

8 THE COURT: Okay. Then the Court hereby adopts the
9 presentence investigation report, the addendum thereto, and
10 recognizes as final the tentative findings and rulings of this
11 Court.

12 Now, at the plea hearing in this case the Court
13 deferred a decision on whether to accept or reject the
14 agreed-upon sentence range in the plea agreement until it had
15 reviewed the presentence report and the addendum.

16 The Court will now accept the plea agreement and the
17 agreed-upon disposition range, which will be included in the
18 sentencing judgment of this Court.

19 Now, Attorney Sughrue, do you have any motions for
20 departure from the guidelines?

21 MR. SUGHRUE: No, Your Honor.

22 THE COURT: And, Attorney Sheehan-Balchon, do you have
23 any motions for departure from the guidelines?

24 MS. SHEEHAN-BALCHON: No, Your Honor.

25 THE COURT: Attorney Sughrue, this would be the time,

1 then, for any arguments you want to make in favor of where this
2 Court should sentence your client on the agreed-upon range
3 that's in the plea agreement. I'll hear argument at this time.

4 MR. SUGHRUE: Thank you, Your Honor.

5 This case is not easy to prosecute; this case not easy
6 to defend. But when it boils down, it's about a balance of
7 interests.

8 In this case my client is defending against two
9 fronts, one in Clearfield County where he was originally
10 arrested in 2019 and charged with 1500 of 1800-some odd counts.
11 Soon thereafter the Federal Government adopted what I will
12 characterize as the child pornography possession and production
13 parts of those state offenses. But the other state-related
14 child victim or minor A charges still remain in Clearfield
15 County.

16 So I would submit that these interests that the
17 Federal Government stepped in to take this section of the
18 crimes are basically fully resolved through the Clearfield
19 County case. There is no federal interest that is not
20 protected by Clearfield County's prosecution. At the same time
21 there is no state interest that the Federal Government is not
22 actually preserving as well.

23 In Clearfield County we have a written plea agreement
24 with the District Attorney's office for a sentence of 20 to 40
25 years in the Pennsylvania Department of Corrections. As you

1 may or may not be aware, that sentence is basically a sentence
2 of 40 years in prison. And he will come up for parole at no
3 later than his -- one-half his maximum, which is 20 years. And
4 so he also, it's my understanding, has to be present in the
5 Pennsylvania DOC to be eligible for that parole.

6 After this matter resolves, I will be notifying the
7 Clearfield County authorities that their matter can proceed,
8 after which time I expect Judge Cherry to accept the plea of
9 guilty and perhaps after a presentence investigation will
10 sentence my client to the 20-to-40 years that is to be
11 concurrent to the sentence of this Court.

12 The District Attorney's office at that time had a --
13 or during this negotiation really had, in my opinion, one --
14 one point that was important to them is that Mr. Martin be
15 returned to Pennsylvania Department of Corrections to be seen
16 by the parole board to make sure that he has been as
17 rehabilitated as he can be and that he's given the resources
18 necessary for an effective and successful re-entry into
19 society.

20 A 30-year sentence does that. A 30-year sentence in
21 the Bureau of Prisons, if Mr. Martin, one, survives it, will --
22 and earns all of his good time, will result in a 25-year
23 sentence. We did flip his custody over to federal custody on
24 the record when Clearfield County granted him an unsecured bail
25 after our detention hearing in this matter. And so he does

1 have some time to give back to the state that the Bureau of
2 Prisons will not take.

3 And so I submit that the 30-year sentence with -- if
4 he earns his good time, ends up being a 25-year sentence, is
5 only half of the battle here. After he's released from the
6 Bureau of Prisons, at whatever time that may be, he will have
7 to be returned, when he's much older in life, well into his
8 sixties, be transferred to a new corrections facility handled
9 by the Pennsylvania Department of Corrections. He'll have to
10 undergo a whole new learning, a whole new getting used to his
11 surroundings, a whole new learning what it takes to work on the
12 books, what it takes to communicate with family, loved ones,
13 and those sorts of things.

14 Only then, once he's processed in, will he then come
15 up to the parole board. And it's -- should not be assumed in
16 my opinion that he will get paroled at his first opportunity.
17 We hope that it will be. We hope that he'll have 25 years of
18 good behavior and programming and education and counseling
19 through the Bureau of Prisons that shows that he is a great
20 candidate for parole. However, I don't think anyone sitting in
21 this courtroom knows what will happen 25 years from today with
22 the parole system of Pennsylvania.

23 So I would submit that really we have to look back at
24 the balancing of the interests. And the fact that: Is there a
25 federal interest that the 20-to-40-year sentence doesn't

1 protect? And the answer to that I would submit is no. Is
2 there a state interest that the 30-year sentence or 35-year
3 sentence of the federal BOP not protect? And the answer is no.

4 So in the end I would submit that a 30-year sentence
5 is the statutory maximum sentence, is the sentence that's
6 consistent with the presentence report, and it's the sentence
7 for which we are asking this Court -- to which we are asking
8 this Court to sentence Mr. Martin.

9 I would ask that he -- as you've already said in your
10 tentative findings, he's not eligible -- or he's unable to pay
11 a fine, and I would submit any proper use of any resources that
12 Mr. Martin would have is more properly paid out to restitution
13 of the identified victims in this matter.

14 The -- this crime is bad. It is horrific. The
15 United States can stand up and describe for you how bad it is
16 in whatever is contained. My client has admitted his conduct
17 in this case. He has admitted guilt to those charges. Those
18 are all things that we've already come to terms with.

19 What we would ask Your Honor is now focus on what
20 needs to happen for the future; and I would submit that under
21 the 3553(a) factors, that a 30-year sentence is sufficient but
22 not greater than necessary to achieve the goals of sentencing,
23 especially in light of the duplicative overlapping and totally
24 inclusive state interests that are going to be protected when
25 he gets sentenced to the 20-to-40-year sentence.

1 And if this Court has any doubt on that, on the state
2 court docket you will see that we did have a status conference
3 that I attended, whereupon District Attorney Sayers, Public
4 Defender Dell and myself appeared, at which time the Court
5 indicated really different than what Clearfield County normally
6 does in the court. The Court did indicate that they would
7 agree to that 20-to-40-year sentence concurrent to the
8 sentence-of.

9 So I would submit to you that the earlier that my
10 client gets to the Pennsylvania Department of Corrections is
11 the earlier that the state's interest that needs to be
12 protected most can be protected by having Mr. Martin evaluated
13 by the parole board for determination of whether or not he is a
14 candidate to re-enter society.

15 If I could have just one moment --

16 (Off the record discussion between the Defendant and his
17 counsel.)

18 MR. SUGHRUE: As it concerns a recommendation for
19 placement, Your Honor, we would request that -- obviously it's
20 only a recommendation, and the Bureau of Prisons will do their
21 analysis -- but my client's saying that SCI Elkton in Ohio has
22 the programs necessary and the expertise in helping provide
23 Mr. Martin with counseling that he's going to need -- that he's
24 going to be needing and most likely ordered by this Court.

25 Additionally, they have a fair record of keeping

1 people with these convictions safe in their institution. As I
2 would note, that the Cambria County jail failed in that in the
3 last couple weeks, and that someone on my client's pod with his
4 type of charges required a hospital stay after a sound beating
5 by a person who has not been arrested by the state as of yet.

6 It is my understanding that he suffered, at a minimum,
7 a concussion and some sort of brain injury. That person is now
8 out of the hospital, in fact in prison. But the offender isn't
9 even in the hole two weeks later, two-and-a-half weeks later.

10 So I would submit that taking all those things into
11 account, that a 30-year-sentence is sufficient but not greater
12 than necessary to achieve the goals of sentencing, lifetime
13 supervised release, no fine, and recommendation that he be
14 placed Elkton.

15 Thank you.

16 THE COURT: Mr. Martin, I'll hear from you at this
17 time.

18 THE DEFENDANT: I just want to apologize for
19 everything I've done. And that I'm -- I would like to go
20 Elkton because it's an available facility, not -- I've been
21 having problems with breathing and everything because I got
22 COVID twice in Cambria County and I went to the hospital one
23 time.

24 And -- I'm just sorry for everything.

25 THE COURT: Attorney Sheehan-Balchon?

1 MS. SHEEHAN-BALCHON: Your Honor, the Court obviously
2 has heard through the change of plea hearing, the sentencing
3 memorandum submitted, the offense conduct submitted in the
4 PSIR, so I don't -- I don't need to go through the Court again
5 with the horrific and grotesque factual basis of this case.
6 However, I would like to just point out a few things that we're
7 asking the Court to consider when fashioning a sentence.

8 First, you received the victim impact statements today
9 from the victim from Counts 1 and 2. Her age at the earliest
10 known assault and attack was three years old. She's currently
11 seven years old. She suffers from PTSD. She has night
12 terrors. She has to be medicated. You hope -- if there's any
13 hope in these kind of cases, you hope that these tender victims
14 don't remember, but she clearly does based on her impact
15 statement which, for the record, is caricature drawings of her
16 crying.

17 Please also consider the impact statements of her
18 guardians. They say no one ever gets over something like this.
19 Everyone in the community knows. Being in the public is very
20 difficult. One of the guardians is 63 years old, and she prays
21 that she's going to survive to raise this child to adulthood.
22 The entire family has suffered from stress and their life has
23 been seriously impacted. They want to move out of this area to
24 avoid the public scrutiny, but they are financially unable to.

25 They have abandoned their restitution request,

1 Your Honor, because they're overwhelmed. They have more
2 interest in justice submitted out by this Court in the
3 sentence. They cannot attend court hearings because they are
4 not comfortable being in the same room with the Defendant.
5 They have worked very hard to normalize Minor A's life.

6 They have been consulted about the plea agreement and
7 they agree. They agree to lifetime supervision because they
8 want this victim to be firmly in her adulthood years before
9 Mr. Martin or Miss Downs is released.

10 With me today, Your Honor, is Agent David Coleman.
11 The point that I'd like to make through Agent Coleman -- and if
12 the Court permits, I'll do it by proffer, and then I will offer
13 the witness for cross examination if it's necessary, or
14 examination by the Court.

15 There was a search warrant conducted, as the Court
16 knows, at the residence of Mr. Martin in January of 2019. Ten
17 months later he's actually arrested on the charges. He was
18 free in the community during that time. When he is arrested in
19 November, Agent Coleman would tell the Court they find on his
20 person a cellphone that 19 days prior to his arrest he
21 downloaded six videos containing sexual exploitation of
22 children, including the video of Minor A being raped.

23 Agent Coleman will tell the Court that this is
24 significant not only to assess his dangerousness to the
25 community, but that he in some cloud storage account that has

1 not been located saved the rape video of that three-year-old
2 child and accessed it and downloaded it at his will. That
3 account has not been identified. Other people who are able to
4 access that account have not been identified.

5 There has been some argument in this case that the
6 video of this child being raped by the Defendant has not been
7 made commercially available and that that should be a factor of
8 mitigation.

9 Mr. Martin behaved exactly in the opposite manner.
10 Not only did he use Tumblr, which is an Internet-based sharing
11 platform, to post an image of this same child masturbating him,
12 he also discussed with his co-defendant about sending the video
13 to a third party, a friend of the family.

14 There's also evidence to suggest, as Agent Coleman
15 would testify, that Mr. Martin sent child pornographic videos
16 and photos to Miss Downs and to this third party family friend
17 in November of 2018. Downs then exchanged another image back.
18 They shared it freely. So their argument or the concept that
19 the video of the victim's rape or the victim's images are not
20 available is completely incredible.

21 Count 2 of this indictment, Your Honor, is the image
22 that Mr. Martin posted on Tumblr of this same child.

23 Mr. Martin is a depraved predator. He's caused
24 physical violence to a very young child in his care, and he's
25 caused a lifetime of psychological damage as well.

1 The United States is asking the Court's analysis of
2 the 3553 factors, they strongly support the 35-year sentence,
3 and I ask the Court to impose it. The interests of the Federal
4 Government here, Your Honor, are clearly separate and distinct
5 from those in Clearfield County. This Defendant not only
6 repeatedly raped this child and sexually assaulted this child,
7 but he documented it for eternity.

8 Thank you.

9 THE COURT: Attorney Sughrue, do you have any further
10 comments to make on your client's behalf?

11 MR. SUGHRUE: I have no questions for Agent Coleman
12 and no further argument.

13 THE COURT: Attorney Sughrue, do you know of any
14 reason other than those previously discussed why sentence
15 should not now be imposed on this Defendant?

16 MR. SUGHRUE: No, Your Honor.

17 THE COURT: I will now impose sentence.

18 Pursuant to the Sentencing Reform Act of 1984, it is
19 the judgment of the Court that the Defendant Jackson Curtis
20 Martin, III, is hereby committed to the custody of the Bureau
21 of Prisons to be imprisoned for a term of 420 months,
22 consisting of 360 months at each of Counts 1 and 2, to be
23 served concurrently to one another, and a term of imprisonment
24 of 60 months at each of Counts 3 and 5, to be served
25 concurrently to one another and consecutive to the 360-month

1 concurrent terms at Counts 1 and 2.

2 This Court has also ordered and shall order mandatory
3 restitution to the victims in this case, and that is to be
4 determined by the Court.

5 I will hear from the United States as to how
6 restitution is to be treated in this case.

7 MS. SHEEHAN-BALCHON: Your Honor, at this point I'm
8 making a motion to bifurcate the restitution hearing, and
9 myself and Attorney Sughrue will address that issue and advise
10 the Court and Probation.

11 THE COURT: Okay. Attorney Sughrue, is that correct?

12 MR. SUGHRUE: It's correct, and we agree.

13 THE COURT: The Court will grant the request for a
14 bifurcated sentencing hearing; and at that hearing, then, the
15 Court will order the mandatory restitution for each of the
16 victims in this case.

17 Now, upon release from your 420 months of
18 imprisonment, the Defendant shall be placed on a term of
19 supervised release for a term of life at each of Counts 1, 2, 3
20 and 5, to run concurrently.

21 Within 72 hours of release from the custody of the
22 Bureau of Prisons, the Defendant shall report in person to the
23 Probation Office in the district to which the Defendant is
24 released.

25 While on supervised release, the Defendant shall not

1 commit another federal, state or local crime; shall comply with
2 the standard conditions of supervision recommended by the
3 United States Sentencing Commission and adopted by this Court;
4 and shall comply with the following additional conditions.

5 The Defendant shall not illegally possess a controlled
6 substance.

7 The Defendant shall not possess a firearm, ammunition,
8 destructive device or any other dangerous weapon.

9 The Defendant shall have no contact by any means
10 including but not limited to direct, indirect, or third party
11 contact, whether electronic, in-person, mail, telephonic or
12 through social media or online postings, with any of the minor
13 victims in this case or any family members of the victims.

14 However, contact with Amanda Downs is permitted about
15 matters unrelated to the case and only if Amanda Downs consents
16 to such communication through counsel, notification to the US
17 Attorney's Office, and the United States Probation Office.

18 The Defendant shall report any change of address
19 within 30 days to the United States Attorney's Office while any
20 portion of the restitution remains outstanding.

21 The Defendant is prohibited from incurring new credit
22 charges or opening additional lines of credit without prior
23 written approval of the probation officer.

24 The Defendant shall participate in a mental health
25 assessment and/or treatment program approved by the probation

1 officer until such time as the Defendant is released from the
2 program by the Court. The Defendant shall be required to
3 contribute to the costs of services in an amount determined by
4 the probation officer. These costs shall not exceed the actual
5 cost of service. The Probation Office is authorized to release
6 the Defendant's presentence report to the treatment provider if
7 so requested.

8 The Defendant shall pay restitution as will be ordered
9 in the bifurcation by this Court that is imposed by that
10 judgment and that remains unpaid at the commencement of the
11 term of supervised release at a rate of not less than ten
12 percent of his gross monthly earnings. The first payment shall
13 be due within 30 days from the Defendant's release from the
14 custody of the Bureau of Prisons.

15 The Defendant shall participate in a program of
16 testing and, if necessary, treatment for substance abuse, said
17 program to be approved by the probation officer until such time
18 as the Defendant is released from the program by the Court.
19 Further, the Defendant shall be required to contribute to the
20 costs of services for any such treatment in an amount
21 determined by the probation officer, but not to exceed the
22 actual cost.

23 The Defendant shall submit to one drug urinalysis
24 within 15 days after being placed on supervision and at least
25 two periodic tests thereafter.

1 It is further ordered that the Defendant shall not
2 intentionally purchase, possess and/or use any substances
3 designed to simulate or alter in any way the Defendant's own
4 urine specimen. In addition, the Defendant shall not purchase,
5 possess, and/or use any device designed to be used for the
6 submission of a third party urine specimen.

7 The Defendant shall provide the probation officer with
8 access to any requested financial information.

9 The Defendant shall cooperate in the collection of DNA
10 as directed by the probation officer pursuant to the Code of
11 Federal Regulations, the DNA Fingerprint Act of 2005, and the
12 Adam Walsh Child Protection and Safety Act of 2006.

13 The Defendant is permitted to possess or use a
14 computer and is allowed access to the Internet. However, the
15 Defendant is not permitted to use a computer or other
16 electronic communication or data storage devices, including a
17 cellphone, to access child pornography or to communicate with
18 any individual or group for the purpose of promoting sexual
19 relations with children.

20 The Defendant shall consent to the installation of any
21 hardware or software to monitor any computer or other
22 electronic communication or data storage devices used by the
23 Defendant to confirm compliance with this condition. The
24 Defendant shall pay the monitoring costs as directed by the
25 probation or pretrial services officer.

1 Furthermore, the Defendant shall consent to periodic
2 unannounced examination by the probation or pretrial services
3 officer of any computers, cellphones, or other electronic
4 communication or data storage devices that the Defendant has
5 access to to confirm compliance with this condition.

6 Additionally, the Defendant shall consent to the
7 seizure and removal of hardware and data storage media for
8 further analysis by the probation or pretrial services officer
9 based upon a reasonable suspicion of a violation of the
10 conditions imposed in this case or based upon reasonable
11 suspicion of unlawful conduct by the Defendant.

12 Failure to submit to the monitoring or search of
13 computers and other electronic communication or data storage
14 devices used by the Defendant may be grounds for revocation.

15 If the Defendant's employment requires the use of a
16 computer, the Defendant may use a computer in connection with
17 the employment approved by the probation or pretrial services
18 officer, provided the Defendant notifies their employer of the
19 nature of the conviction or charge. The probation or pretrial
20 services officer shall confirm compliance with this
21 notification requirement.

22 The Defendant shall provide the US Probation Office
23 with accurate information about the Defendant's entire computer
24 system, hardware or software, and other electronic
25 communication or data storage devices or media to include all

1 passwords used and the name of the Internet service providers.
2 The Defendant also shall abide by the provisions of the
3 computer restrictions and monitoring program approved by the
4 Court.

5 The Defendant shall submit his person, property,
6 house, residence, vehicle, papers, business, or place of
7 employment to a search conducted by a United States Probation
8 or Pretrial Services officer at a reasonable time and in a
9 reasonable manner based upon reasonable suspicion of contraband
10 or evidence of a violation of a condition of supervision.

11 Failure to submit to a search may be grounds for revocation.
12 The Defendant shall inform any other residents that the
13 premises may be subject to searches pursuant to this condition.

14 The Defendant shall not possess or access with intent
15 to view any materials including pictures, photographs, books,
16 writings, drawings, videos, or video games depicting and/or
17 describing child pornography as defined in 18 United States
18 Code Section 2256(8) or obscene visual representations of the
19 sexual abuse of children as defined in 18 United States Code
20 Section 1466A.

21 With the exception of brief unanticipated and
22 incidental contacts to include the Defendant's place of
23 employment and/or volunteer activity, the Defendant shall not
24 associate with children under the age of 18 except in the
25 presence of an adult who is aware of the nature of the

1 Defendant's history, characteristics and/or convictions, and
2 has been approved by the probation officer.

3 The Defendant shall participate in a mental health
4 and/or sex offender treatment program approved by the probation
5 officer until such time as the Defendant is released from the
6 program by the Court. The Defendant shall abide by all program
7 rules, requirements and conditions of the sex offender
8 treatment program, including submission to polygraph testing.
9 Said testing shall continue throughout the term of supervision
10 in order to monitor and ensure compliance with the conditions
11 of supervision.

12 Further, the Defendant shall be required to contribute
13 to the costs of services for any such treatment in an amount
14 determined by the probation officer but not to exceed the
15 actual cost.

16 The Probation Office is authorized to release the
17 Defendant's presentence report to the treatment provider if so
18 requested.

19 As required by 18 United States Code Sections
20 3563(a)(8) and 3583(d) and the Sex Offender Registration and
21 Notification Act, the Defendant shall report the address where
22 he will reside and any subsequent change of residence to the
23 probation officer responsible for Defendant's supervision and,
24 further, shall register as a convicted sex offender in any
25 state where he resides, is employed, carries on a vocation, or

1 is a student.

2 The Defendant shall not frequent and/or loiter within
3 500 feet of places where children congregate on a regular basis
4 such as, but not limited to, schools, playgrounds, children's
5 toy and/or clothing stores, video arcades, day care centers,
6 swimming pools, zoos, amusement parks or other places primarily
7 used or that can reasonably be expected to be used by children
8 under the age of 18 without prior permission of the probation
9 officer.

10 The Defendant shall not photograph and/or videotape
11 any children under the age of 18 without the written consent of
12 their parent or legal guardian who is aware of the nature of
13 Defendant's history, characteristics and/or convictions and has
14 been approved by the probation officer.

15 The Defendant shall forfeit to the United States all
16 of the 32 items specifically detailed in this Court's
17 preliminary order of criminal forfeiture which was filed on
18 May 26th of this year at Document No. 116.

19 The Court finds that the Defendant does not have the
20 ability to pay a fine. Therefore, imposition of a fine is
21 waived in this case.

22 It is further ordered that the Defendant shall pay to
23 the United States a mandatory special assessment of \$400 which
24 shall be paid to the United States District Court Clerk
25 forthwith.

1 The Court further finds that the Defendant is
2 financially unable to pay the Justice for Victims of
3 Trafficking Act of 2015 and the Amy, Vickie and Andy Child
4 Pornography Victim Assistance Act assessments. Therefore,
5 imposition of these assessments are waived.

6 It is also the recommendation of this Court that the
7 Defendant be placed at the Elkton, Ohio, Bureau of Prisons
8 facility.

9 This sentence is imposed after consideration of each
10 of the factors set forth in 18 United States Code
11 Section 3553(a) and those factors support your sentence as
12 follows.

13 As to Factor One, the nature and circumstances of
14 these offenses include the following. Defendant has pled
15 guilty to two counts of production of material depicting the
16 sexual exploitation of a minor and two counts of possession of
17 materials depicting the sexual exploitation of a minor.

18 The evidence revealed that Defendant produced sexually
19 explicit images of his then three-year-old stepdaughter engaged
20 in sexual conduct with him, and also this case involved the
21 Defendant possessing 2,286 images of child sex abuse material.

22 As to the history and characteristics of this
23 Defendant, Mr. Martin is 46 years old. He married his
24 co-defendant Amanda Downs in July of 2019. He has no
25 biological children, but his wife has a child, who is the minor

1 victim in the offenses in this case.

2 Mr. Martin suffers from breathing issues that are
3 residual effects from contracting COVID-19 on two occasions.
4 He also has high blood pressure and kidney stones and has had
5 surgery to repair a hernia in the past. He's also been
6 diagnosed with depression and anxiety.

7 Mr. Martin reports that he began using marijuana at
8 age 18 and last used it in 2017, and at that time he states he
9 was using it occasionally. However, he has never participated
10 in substance abuse treatment.

11 He did complete the tenth grade and has earned his
12 GED. He attended Patrick Henry Community College in
13 Martinsville, North Carolina, for one year, but no degree was
14 obtained.

15 As to a work history, he worked at Autozone from 2016
16 to 2019; at Carpet One from 2012 to 2015; and at an unknown
17 furniture store in 2012, all in Clearfield.

18 As to Factor Number Two, Mr. Martin, your offenses are
19 reprehensible and are serious violations of federal law. You
20 have inflicted irreparable harm upon your stepdaughter as well
21 as endangered her in the community. Your sentence is at the
22 high end of the range, as that reflects the seriousness and
23 grotesque nature of your offenses. The need for your sentence
24 to reflect punishment and deterrence is satisfied by 420 months
25 of imprisonment.

1 With 420 months of imprisonment, your incarceration
2 reflects the need for you to be punished as well as the need to
3 remove you from society for a long period of time, which will
4 hopefully be sufficient to deter future violations.

5 A period of supervised release for the rest of your
6 life is clearly justified, and the conditions of your
7 supervised release will hopefully serve to deter any similar
8 criminal conduct by you in the future.

9 As to Factor Number Three, the maximum possible
10 sentence the Court is allowed by statute to impose is not less
11 than 15 years and not more than 30 years of imprisonment at
12 each of Counts 1 and 2, and not more than 20 years at each of
13 Counts 3 and 5.

14 The sentencing guidelines, which are advisory and one
15 factor to be considered, provide for the statutorily authorized
16 maximum statutory sentence of 360 months at Counts 1 and 2 and
17 240 months at Counts 3 and 5, and that was because the advisory
18 guideline range was life, which had to be limited by the
19 statutory ranges.

20 The Court has chosen to impose a sentence at the high
21 end of the range, which was agreed to in the Rule 11(c) (1) (C)
22 plea agreement, as I believe a sentence of 420 months of
23 imprisonment reflects the extreme seriousness of your crime. A
24 term of supervised release for life shall be served after your
25 imprisonment. You do not have the ability to pay a fine, so

1 one was not imposed. The special assessment of \$400 is
2 mandatory, and restitution will be determined at the bifurcated
3 sentencing hearing.

4 As to Factor Four and Factor Five, I find that the
5 sentencing guidelines provide a fair gauge of the amount of
6 imprisonment and supervised release that are appropriate for
7 your punishment, including considerations of your criminal and
8 personal history. And that's the guideline range that had to
9 be limited by the statutorily required mandatory sentences.
10 Therefore, a term of 420 months of imprisonment is sufficient
11 but not greater than necessary to comply with the statutory
12 purposes of sentencing.

13 Your sentence is within that range, as it was agreed
14 to by the parties, and it reflects the Court's satisfaction
15 that 420 months of imprisonment is an appropriate and just
16 sentence.

17 As to Factor Six, in imposing a sentence of 420 months
18 of imprisonment, the guidelines as applied to your
19 circumstances present an instance where this sentence imposed
20 is proper. Any disparity with others sentenced for similar
21 crimes is justified in light of several factors and specific
22 circumstances surrounding you and your crimes.

23 The supervised release term of life is also within the
24 guideline range and is warranted because it is readily apparent
25 that you are in serious need of counseling and lifetime

1 supervision. As stated, the supervised release will hopefully
2 assist you in re-integrating successfully into society after
3 your 420 months of imprisonment.

4 As to Factor Seven, as stated, because you have pled
5 guilty to Counts 3 and 5, which are child pornography
6 trafficking offenses, restitution is mandatory as set forth in
7 18 United States Code Section 2259(b)(2). Under that section,
8 the Court must still yet determine the full amount of the
9 victims' losses and will order restitution in an amount that
10 reflects your role in the causal process that underlines these
11 victims' losses, but which is no less than \$3,000.

12 Restitution is also mandatory pursuant to 18 United
13 States Code Section 3663A.

14 The Defendant has been federally detained since
15 March 23rd, 2020, and is not a candidate for voluntary
16 surrender.

17 Mr. Martin, you can appeal your conviction if you
18 believe your guilty plea was somehow unlawful or involuntary or
19 if there's some other fundamental defect in the proceedings
20 that was not waived by your guilty plea.

21 You also have a statutory right to appeal your
22 sentence under certain circumstances, particularly if you think
23 this sentence is contrary to law.

24 However, a Defendant may waive those rights as part of
25 a plea agreement, and you have entered into a plea agreement

1 which waived some or all of your rights to appeal the sentence
2 itself. Such waivers are generally enforceable; but if you
3 believe the waiver is unenforceable, you can present that
4 theory to the appellate court.

5 If you cannot afford the costs of an appeal, you have
6 the right to request to proceed with your appeal in forma
7 pauperis. The Clerk of the Court will prepare and file a
8 notice of appeal upon your request. With very few exceptions,
9 any notice of appeal must be filed within 14 days of the entry
10 of this judgment.

11 Attorney Sughrue, I know you are aware of your
12 continuing duties and responsibilities as Mr. Martin's
13 counselor in any appellate process, is that correct?

14 MR. SUGHRUE: Yes, Your Honor.

15 THE COURT: Is there anything else that counsel wish
16 to address at this time?

17 MS. SHEEHAN-BALCHON: No, Your Honor.

18 MR. SUGHRUE: No, Your Honor.

19 THE COURT: Mr. Martin, I do have to take a few
20 minutes.

21 I've been involved with the criminal justice system
22 for almost 30 years. Prior to taking the bench, I was
23 exclusively working in the criminal justice system as a
24 prosecutor for many, many years and also as defense counsel.
25 And I can tell you in all of those years there has nothing been

1 more appalling, more grotesque, more disgusting and more
2 heinous than the factual basis that I heard from the
3 United States during the sentence -- excuse me, during your
4 plea hearing and what I read in that presentence report.

5 I have to say that the advisory guideline range of
6 lifetime imprisonment is probably what is exactly appropriate
7 for you. The fact that the statutory maximums prohibit that
8 advisory sentencing guideline range is probably the only
9 reason -- or one of the only reasons that I would not want to
10 sentence you to life so that you could never be around any
11 child again.

12 It took me a long time and it was a hard process for
13 me to determine whether or not I would even accept the 30-to-35
14 year range that was the agreed-upon range by counsel in this
15 case. And I'll tell you, I came real close to not accepting it
16 because I could -- under the statutorily imposed ranges, I
17 could have given you up to 100 years under the statute, because
18 that's what's permitted by your four pleas of guilty to the
19 four counts of this indictment.

20 Sir, I cannot put in more strong terms the disgust
21 this Court has for you and your behaviors of what you did to
22 your innocent, three-year-old stepdaughter and the other
23 victims in the more than 2200 pictures and videos that you had
24 of child pornography.

25 And frankly, sir, when you had the chance today to

1 apologize, the only thing you could muster is: I apologize for
2 everything and I really want to go Elkton because I have
3 breathing problems? Further appalling and disgust from this
4 Court towards you.

5 You can roll your eyes at me, I don't care. Like I
6 said, if -- I thought long and hard, I thought real seriously
7 about giving you more than 420 months. And I hope each and
8 every day of that 420 months that you're serving in federal
9 prison, you think long and hard about the disgusting behavior
10 you inflicted on these young, innocent children. And I do hope
11 that at some point in those 420 months you are able to get some
12 type of training or counseling that will help you with your
13 disgusting behaviors.

14 That's all. This hearing is adjourned.

15 (Hearing adjourned.)

16
17 C E R T I F I C A T E

18 I, Shirley Ann Hall, certify that the foregoing is a correct
19 transcript for the record of proceedings in the above-titled
20 matter.

21
22
23 s/Shirley Ann Hall
24 Shirley Ann Hall, RDR, CRR
25 Official Court Reporter